

## RIGHTS AND RESPONSIBILITIES OF CHAPTER 13 DEBTORS AND THEIR ATTORNEYS

It is important for debtors who file a bankruptcy case under Chapter 13 to understand their rights and responsibilities. It is also important that the debtors know what their attorney's responsibilities are, and understand the importance of communicating with their attorney to make the case successful. Debtors should also know that they may expect certain services to be performed by their attorney. In order to assure that debtors and their attorney understand their rights and responsibilities in the bankruptcy process, the following guidelines provided by the court are hereby agreed to by the debtors and their attorneys.

### **BEFORE THE CASE IS FILED**

#### **The debtor agrees to:**

1. Provide the attorney with accurate financial information.
2. Discuss with the attorney the debtor's objectives in filing the case.

#### **The attorney agrees to:**

1. Meet with the debtor to review the debtor's debts assets, liabilities, income and expenses.
2. Counsel the debtor regarding the advisability of filing either a Chapter 7 or Chapter 13 case, discuss both procedures with the debtor and answer the debtor's questions.
3. Explain what payments will be made directly by the debtor and what payments will be made through the debtor's Chapter 13 plan, with particular attention to mortgage and vehicle loan payments, as well as any other claims which accrue interest.
4. Explain to the debtor how, when, and where to make the Chapter 13 plan payments, and of the necessity to include debtor's case number, name and current address on each payment item.
5. Explain to the debtor how the attorney's fees and trustee's fees are paid and provide an executed copy of this document to the debtor.
6. Explain to the debtor that the first plan payment must be made to the Trustee within 30 days of the date the plan is filed.
7. Advise the debtor of the requirement to attend the 341 Meeting of Creditors and instruct the debtor as to the date, time and place of the meeting, and of the necessity to bring both a picture identification and proof of the debtor's social security number to the meeting.
8. Advise the debtor of the necessity of maintaining liability, collision and comprehensive insurance on vehicles securing loans or leases, including the obligation to bring copies of the insurance declaration pages documenting such insurance to the meeting of creditors.
9. Advise debtors engaged in business of the necessity to maintain liability insurance, workers compensation insurance (if required) and any other coverage that is required by state law.
10. Timely prepare and file the debtor's petition, plan, statements and schedules.

## **AFTER THE CASE IS FILED**

### **The debtor agrees to:**

1. Timely make all required plan payments to the Chapter 13 trustee (due within 30 days after the filing of the plan). Also, if required, timely turn over any tax refunds, personal injury settlement proceeds or other property as requested by the trustee.
2. Timely make all post petition payments to mortgage company and any other creditor(s) that you've agreed to pay directly.
3. Cooperate with the attorney in the preparation of all pleadings and attend all hearings as required.
4. Keep the trustee and attorney informed of the debtor's address and telephone number.
5. Prepare and file all delinquent federal, state and local tax returns within 30 days post-petition.
6. Inform the attorney of any wage garnishments or attachments of assets which occur or continue after the filing of the case.
7. Contact the attorney promptly with any information regarding changes in employment, increases or decreases in income or any other financial problems or changes.
8. Contact the attorney promptly if the debtor acquires any property after the petition is filed. Such property might include personal injury proceeds, inheritances, lottery winnings, etc.
9. Let the attorney know if the debtor is sued during the case.
10. Inform the attorney if any tax refunds the debtor is entitled to are seized or not returned to the debtor by the IRS or the Indiana Department of Revenue.
11. Contact the attorney before buying, refinancing, or selling real property or before entering into any long-term loan agreements to find out what approvals are required.
12. Pay any filing fees and court costs directly to the attorney.
13. Timely produce any financial documents requested by the trustee.

### **The attorney agrees to provide the following legal services:**

1. Appear at the 341 Meeting of Creditors with the debtor.
2. Respond to objections to plan confirmation and, where necessary, prepare an amended plan.
3. Timely submit to the Chapter 13 trustee properly documented profit and loss statements, tax returns or proof of income when requested by the trustee.
4. Prepare, file, and serve necessary modifications to the plan, which may include suspending, lowering, or increasing plan payments.
5. Prepare, file, and serve necessary amended statements and schedules, in accordance with information provided by the debtor.
6. Prepare, file, and serve necessary motions to buy, sell, or refinance real property when appropriate.
7. Object to improper or invalid claims, if necessary, based upon documentation provided by the debtor or the trustee.

8. Represent the debtor in motions for relief from stay and motions to dismiss, or convert.
9. Where appropriate, prepare, file, and serve necessary motions to avoid liens on real or personal property.
10. Be available to respond to debtor's questions throughout the life of the plan.
11. Provide such other legal services as are necessary for the administration of the present case before the Bankruptcy Court.

The total fee charged in this case is \$\_\_\_\_\_. If this fee later proves to be insufficient to compensate the attorney for the legal services rendered in the case, the attorney has the right to apply to the court for any additional attorney fees. Fees shall be paid through the plan unless otherwise ordered. The attorney may not receive additional fees directly from the debtor other than the initial retainer. If an attorney has elected to be compensated pursuant to these guidelines but the case is dismissed or converted prior to confirmation of a plan, absent contrary order, the trustee shall pay to the attorney, to the extent funds are available, an administrative claim equal to 50% of the unpaid fee balance if a properly documented fee claim (for the entire fee balance) has been filed by the attorney and served upon the trustee.

If the debtor disputes the legal services provided or the fees charged by the attorney,  
an objection may be filed with the court and the matter set for hearing.

ed: \_\_\_\_\_  
Debtor

ed: \_\_\_\_\_  
Debtor

ed: \_\_\_\_\_  
Attorney for Debtor(s)